IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF MARCH
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE SRI JUSTICE BILAL NAZKI

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No.23408 of 2001

Between:

Don Bosco Educational & Charitable Society

..... PETITIONER

AND

The Municipal Corporation of Hyderabad and another.

.....RESPONDENTS

ORDER: ***(Per Hon'ble Sri Justice Bilal Nazki,)***

This Writ Petition has been filed in the year 2001 challenging the notice of demand of property tax amounting to Rs.9,60,538/-.

This notice has been challenged on various grounds by the

petitioner-Institution. One of the grounds is that the Educational Institution is not exigible to any tax in terms of Section 202(1) (bb) of the Hyderabad Municipal Corporations Act (for short 'the Act'). Another ground is that the tax has been increased from Rs.350/- to Rs.9,60,538/-.

In the counter-affidavit, it has been stated that during Self Assessment Scheme and rationalization of Property tax, the Property tax was enhanced to Rs.4/- per square feet for RCC and Re.1/- per square feet for Non-RCC structures, and the tax was caliculated at Rs.9,60,538/- for the building occupied by the petitioner-Institution. The plinth area of the building, which the petitioner-Institution is occupying, is 80.937 square feet (RCC & Non RCC). Before passing the impugned order of demand, dated 15-03-2001, a special notice was given to the petitioner-Institution on 22-02-2001, and they were given 15 days time to file their objections, if any. No objections were filed even after receipt of the said notice. Therefore, the authorities passed the order, which is impugned in this writ petition.

The learned Senior Counsel for the petitioner submits that after the final order was passed, objections were filed.

We do not feel that respondents were bound to consider the objections, which were filed after the final order was passed. Admittedly, Petitioner-Institution did not file any objections before the final order was passed, and the final order passed is an appealable order. Whether the Petitioner-Institution falls under Section 202(1) (bb) of the Act or not, is a matter which is partly legal and partly factual and can be considered by the appellate Court.

In these circumstances, we dismiss the Writ Petition, with liberty to the petitioner-Institution to seek any remedy, which may be available to them in law. No costs.

(Bilal Nazki, J)

8th March, 2006

(G.Chandraiah, J)

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